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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,046	03/11/2004	Jung-hyun Lee	2557SI-001239/US	4688
30/593 7590 09/17/2010 HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 8910 RESTON, VA 20195				
EXAMINER				
NADAV, ORI				
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2811				
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09/17/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/797,046

Applicant(s)

LEE ET AL.

Examiner

Ori Nadav

Art Unit

2811

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22 and 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SI/226)
Paper No(s)/Mail Date 4/12/10
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 22-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claimed limitation of an "AHO film", as recited in claims 22 and 23, is unclear as to whether the AHO film is the same element as the " $\text{AHO}((\text{Al}_x, \text{Hf}_{1-x})\text{O}_y)$ film", or a different element.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 22, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Cabral Jr. et al. (6,982,230) in view of Chang et al. (3,996,021) and Seidl et al. (2002/0014647).

Cabral Jr. et al. teach in figure 29 and related text a capacitor of a semiconductor device, the capacitor comprising:

a lower electrode 33 formed on a semiconductor substrate 30;
a first dielectric film 34 formed on the lower electrode;
an upper electrode 35 formed on the first dielectric film; and
a second dielectric film 34 (see column 14, lines 45-47) between the upper electrode and the film,

wherein the second dielectric film is an HfO_2 layer, a ZrO_2 layer, or an STO layer, and

wherein the second dielectric film is directly in contact with the upper electrode. Cabral Jr. et al. do not teach using an $\text{AHO}((\text{Al}_x\text{Hf}_{1-x})\text{O}_y)$ film as the first dielectric film. Chang et al. teach the advantages of using an $\text{AHO}((\text{Al}_x\text{Hf}_{1-x})\text{O}_y)$ film (column 6, lines 33-50).

Seidl et al. teach in figure 1n and related text a capacitor comprising a lower electrode 60, an $\text{AHO}((\text{Al}_x\text{Hf}_{1-x})\text{O}_y)$ film 70 formed directly on the lower electrode, and an upper electrode 80 formed on the AHO film.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to replace the first dielectric film in Cabral Jr. et al.'s device with an $\text{AHO}((\text{Al}_x\text{Hf}_{1-x})\text{O}_y)$ film in order to improve the device characteristics.

The combination is motivated by the teachings of Chang et al. who point out the advantages of using an $\text{AHO}((\text{Al}_x\text{Hf}_{1-x})\text{O}_y)$ film (column 6, lines 33-50).

Note that substitution of materials is not patentable even when the substitution is new and useful. *Safetran Systems Corp. v. Federal Sign & Signal Corp.* (DC NIII, 1981) 215 USPQ 979.

Note further that the combined device includes a second dielectric film having a dielectric constant that is higher than that of the second dielectric film.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cabral Jr. et al. and Chang et al. and Seidl et al., as applied to claim 22 above, and further in view of Chooi et al. (6,486,080).

Cabral Jr. et al., Chang et al. and Seidl et al. teach substantially the entire claimed structure, as applied to claim 22 above, except an oxidation barrier film formed between the lower electrode and the AHO layer.

Chooi et al. teach an oxidation barrier film formed between the lower electrode and the AHO layer (column 2, lines 16-20).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use an oxidation barrier film formed between the lower electrode and the AHO layer in prior art's device, in order to improve the device characteristics.

Response to Arguments

Applicant's arguments with respect to claims 22-23 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ori Nadav whose telephone number is 571-272-1660. The examiner can normally be reached between the hours of 7 AM to 4 PM (Eastern Standard Time) Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Gurley can be reached on 571-272-1670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

O.N.
9/15/2010

/ORI NADAV/
PRIMARY EXAMINER
TECHNOLOGY CENTER 2800